

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARYURIS ROSALES,

Plaintiff,

Case No. 19-cv-13365

Hon. Matthew F. Leitman

v.

WES FINANCIAL GROUP, INC.,

Defendant

**ORDER (1) GRANTING PLAINTIFF LEAVE TO FILE
FIRST AMENDED COMPLAINT AND (2) ORDERING PLAINTIFF TO
OBTAIN LOCAL COUNSEL**

On November 14, 2019, Plaintiff Maryuris Rosales filed this consumer protection action against Defendant Wes Financial Group, Inc. (*See* Compl., ECF No. 1.) Rosales alleges that Wes Financial “made material misrepresentations concerning the quality” of a vehicle Wes Financial sold her. (*Id.* at ¶9, ECF No. 1-1, PageID.5.)

Wes Financial has now moved to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (*See* Mot., ECF No. 4.) Wes Financial argues, among other things, that the Complaint does not plead sufficiently detailed or specific factual allegations and is, therefore, defective for failing to state a plausible claim under the Supreme Court’s decisions in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009) and *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007). (*See id.*, PageID.29.) Wes

Financial also argues that the Complaint fails to plead Rosales' fraud claims with the required "specificity." (*Id.*, PageID.29-30.)

Without expressing any view regarding the merits of the motion to dismiss, the Court will grant Rosales the opportunity to file a First Amended Complaint in order to remedy the purported pleading defects identified by Wes Financial. The Court does not anticipate allowing Rosales another opportunity to amend to add factual allegations that she could now include in her First Amended Complaint. Simply put, this is Rosales' opportunity to allege any and all additional facts, currently known to her, that may cure the alleged pleading deficiencies in the Complaint.

By **December 30, 2019**, Rosales shall notify the Court and Wes Financial in writing whether she will amend the Complaint or respond to the motion to dismiss. If Rosales provides notice that she will be filing a First Amended Complaint, she shall file that amended pleading by no later than **January 13, 2020**, and Wes Financial shall answer or otherwise respond to it by no later than **February 3, 2020**. Upon the filing of a First Amended Complaint, the Court will terminate without prejudice Wes Financial's currently-pending motion to dismiss as moot. If Rosales provides notice that she will not be filing a First Amended Complaint, she shall file her response to Wes Financial's motion to dismiss in accordance with the Court's Local Rules.

Finally, the Court notes that Rosales is represented by attorney Michael D. Portnoy of Perrysburg, Ohio. It does not appear that Mr. Portnoy is a member of the Stater Bar of Michigan. Pursuant to Local Rule 83.20(f):

A member of the bar of this court who appears as attorney of record in the district court and is not an active member of the State Bar of Michigan must specify as local counsel a member of the bar of this court with an office in the district. Local counsel must enter an appearance and have the authority and responsibility to conduct the case if non-local counsel does not do so. On application, the court may relieve an attorney who is not an active member of the State Bar of Michigan of the obligation to specify local counsel.

E.D. Mich. Local Rule 83.20(f). Accordingly, Rosales is ordered to either (1) obtain local counsel and have that counsel file an appearance with this Court by no later than **January 13, 2010** or (2) file an application that requests relief from the local counsel requirement. Such an application must sufficiently explain why Rosales believes that local counsel is not necessary in this action.

IT IS SO ORDERED.

Dated: December 16, 2019

s/Matthew F. Leitman

MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 16, 2019, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager
(810) 341-9764